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May 1, 2024

Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Courtroom 705
New York, New York 10007

Re: *Jerry Jackson v. EMD Logistics, et al.*
Case No.: 1:23-CV-04020-PGG

Honorable Gardephe,

This firm represents Defendants in this matter. Defendants submit this letter to respectfully request that they be permitted to conduct limited expert discovery involving taking the deposition of Plaintiff's expert, Dr. Michael Gerling. Plaintiff consents to this request. As noted in the brief procedural history below, this is the parties' first such request.

In the Initial Case Scheduling Order , the Court initially set the fact discovery deadline for December 6, 2023 and the expert discovery deadline for January 5, 2024 (See Dkt. No. 10). On November 28, 2023, the parties submitted a joint letter requesting the extension of the fact discovery deadline to February 4, 2024, which the Court granted. (See Dkt. Nos. 12 and 13).

On February 7, 2024, the parties submitted a second joint status letter informing the Court that party depositions had been complete and that the parties wished to be referred for a settlement conference with a magistrate judge. (See Dkt. No. 15 and 16). Then, on April 25, 2024, the parties filed a third joint letter advising the Court that fact discovery was complete and that settlement negotiations were unsuccessful. (See Dkt. No. 15).

Defendants were remiss in not requesting the limited expert discovery in their April 25, 2024 letter. However, whereas fact discovery had been extended, the expert discovery deadline had not been addressed by the parties or the Court. Further, Defendants were hopeful that the settlement conference would resolve the matter without having to engage in costly expert discovery.

In light of the above, Defendants respectfully request that they be allowed to conduct the deposition of Plaintiff's expert, Dr. Michael Gerling. Defendants have served Plaintiff's counsel with a notice to take his deposition and are working with plaintiff's counsel to schedule a mutually convenient date.

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Including the former operations of Rubin, Fiorella, Friedman & Mercante LLP

Defendants thank the Court for its time and consideration of this request.

Respectfully submitted,

GALLO VITUCCI KLAR LLP

Nadine Ibrahim
Nadine Ibrahim

MEMO ENDORSED:

Expert discovery in this case is reopened – for 21 days – to permit Defendants to take the deposition of Dr. Michael Gerling. Expert discovery is to be completed by **May 23, 2024**.

Any party seeking to make a post-discovery dispositive motion should submit a letter to the Court in accordance with Rule 4(A) of the Court's Individual Practices by **May 23, 2024**. Opposition letters should be submitted by May 27, 2024.

The conference currently scheduled for May 9, 2024, is adjourned to **May 29, 2024, at 10:30 a.m.**

SO ORDERED.

Paul G. Gardephe

Paul G. Gardephe
United States District Judge

Date: May 1, 2024